HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
P.O. Box 2910, Austin, Texas 78768-2910
(512) 463-0752 • http://www.hro.house.state.tx.us

HOUSE RESEARCH ORGANIZATION

daily floor report

Thursday, May 18, 2017
85th Legislature, Number 74
The House convenes at 10 a.m.

Fifteen bills are on the daily calendar for second-reading consideration today. Bills on the Emergency, Major State, and General State calendars analyzed in today's *Daily Floor Report* are listed on the following page.

The House will also consider a Congratulatory and Memorial Calendar.

Dwayne Bohac
Chairman
85(R) - 74

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Thursday, May 18, 2017
85th Legislature, Number 74

SUBJECT: Expanding community-based foster care services

COMMITTEE: Human Services — committee substitute recommended

VOTE: 6 ayes — Raymond, Frank, Keough, Klick, Miller, Minjarez

1 nay — Rose

2 absent — Swanson, Wu

SENATE VOTE: On final passage, March 1 — 31-0

WITNESSES: For — Wayne Carson, ACH Child and Family Services; Scott Lundy, Arrow Child and Family Ministries; Christina Green, Children's Advocacy Centers of Texas, Inc.; Stacy Wilson, Children's Hospital Association of Texas; Annette Rodriguez, Children's Shelter - San Antonio; Sarah Crockett, Texas CASA; Ryan Van Ramshorst, Texas Pediatric Society; Katie Olse, Texas Alliance of Child and Family Services; John Specia; (*Registered, but did not testify*: Kimmi Selinger, Behavioral Health Advocates of Texas; Jake Posey, Cal Farley's Boys Ranch; Ann Hettinger, Center for the Preservation of American Ideals; Matt Moore, Children's Health System of Texas; Michael Redden, New Horizons; Kate Murphy, Texans Care for Children; Jennifer Allmon, Texas Catholic Conference of Bishops; Steve Koebele, Texas Coalition of Homes for Children; John Hawkins, Texas Hospital Association; Troy Alexander, Texas Medical Association; James Thurston, United Ways of Texas; Knox Kimberly, Upbring)

Against — Lee Spiller, Citizens Commission on Human Rights

On — Elizabeth "Liz" Kromrei and Lisa Subia, Department of Family and Protective Services; Gary Jessee, Health and Human Services Commission; Will Francis, National Association of Social Workers - Texas Chapter; Brandon Logan, Texas Public Policy Foundation; Harrison Hiner, Texas State Employees Union; Anu Partap, UT Southwestern Medical Center and Children's Health System of Texas; (*Registered, but did not testify*: Kristene Blackstone, Lisa Kanne, Sasha

Rasco, Jean Shaw, Kaysie Taccetta, and Trevor Woodruff, Department of Family and Protective Services; Robert Kepple, Texas District and County Attorneys Association)

BACKGROUND:

The 82nd Legislature in 2011 enacted SB 218 by Nelson, which implemented foster care redesign at the Department and Family Protective Services (DFPS) by directing the agency to adopt stakeholder recommendations included in a DFPS report. The report produced eight quality indicators for foster care redesign, such as ensuring children are safe and that they receive appropriate services, have a chance to participate in decisions affecting their lives, and have foster placements near their home communities. SB 218 also directed DFPS to change how the state contracts and pays for child welfare services.

Family Code, sec. 263.401 requires courts to dismiss after one year a conservatorship case affecting the parent-child relationship if the court has not started a trial on the merits or granted an extension. Sec. 266.012 requires a child to receive a comprehensive assessment, which includes a trauma screening and interviews with individuals who are aware of the child's needs, within 45 days after entering DFPS conservatorship. Sec. 261.001 defines abuse and neglect for in-home investigations by Child Protective Services, and sec. 261.401 defines abuse, neglect, and exploitation for the purpose of investigations of child-care facilities. Sec. 162.0062 entitles prospective adoptive parents of a foster child to examine records and other relevant background information of the child.

Sec. 264.124 requires DFPS to verify that a foster parent who is seeking monetary assistance from DFPS for day care has attempted to find appropriate day care services for the foster child through community services. Except in emergency placement situations, DFPS may not provide monetary assistance to a foster parent for day care until it has received the required verification from the foster parent.

DIGEST:

CSSB 11 would transfer certain case management services from the Department of Family and Protective Services (DFPS) to a qualified single source continuum contractor (SSCC) that would provide community-based foster care within a contracted area.

Community-based foster care. The bill would change the name of foster care redesign to community-based foster care. A catchment area would be defined as a geographic area for providing child protective services that was identified as part of the community-based foster care redesign. While DFPS would maintain temporary or permanent custody of a child, an SSCC would oversee the case management services of a child in a catchment area. Case management services would include:

- caseworker visits;
- family and caregiver visits;
- permanency planning meetings;
- development and revision of child and family plans of service, including a permanency plan and goals for a child;
- coordination and monitoring of services required by the child and the child's family;
- court-related duties, including ensuring the child was progressing toward the goal of permanency within state and federally mandated guidelines; and
- other services DFPS deemed necessary for a single source continuum contractor to assume responsibility of case management.

DFPS would transfer family reunification support services and case management services to an SSCC that was operating in an initial catchment area before June 1, 2017. DFPS and the SSCC would create an initial case transfer planning team to address any necessary data transfer, establish file transfer procedures, and notify relevant persons about the transfer of services to the SSCC.

Qualifications. To qualify as an SSCC, an entity would have to be a nonprofit or governmental entity that was licensed as a service provider by DFPS, had an organizational mission and demonstrated experience in the delivery of services to children and families, and could provide all services and perform all duties as outlined in the bill. DFPS would be required to develop a readiness review process to determine the ability of an SSCC to provide foster care services in a catchment area.

SSCC contract. The bill would require a contract with an SSCC to:

- specify performance outcomes and financial incentives for exceeding any performance outcomes;
- establish conditions for the SSCC's access to relevant DFPS data and require the SSCC to participate in the data access and standards governance council created under the bill;
- require the SSCC to create one process for the training and use of alternative caregivers for all child-placing agencies in the catchment area to facilitate reciprocity of licenses for alternative caregivers between agencies, including respite and overnight care providers, as defined by DFPS rule; and
- require the SSCC to maintain a diverse network of service providers that could accommodate children from different cultural backgrounds.

DFPS would review, approve, or disapprove a contractor's decision about a child's permanency goal. The bill would require DFPS to form an internal dispute resolution process to resolve disagreements between an SSCC and DFPS. In addition, an SSCC and any subcontractor would have to maintain minimum insurance coverage.

The bill would require DFPS to create the foster care services contract compliance, oversight, and quality assurance division. The division would oversee contract compliance and achievement of performance-based outcomes by any vendor that provided community-based foster care, assess the fiscal and qualitative performance of vendors, and administer a dispute resolution process between SSCCs and subcontractors.

The bill would allow an SSCC to end its contract early by providing notice to DFPS at least 90 days before the termination. DFPS could end a contract with an SSCC by giving notice at least 30 days before termination. DFPS would have to create a contingency plan in every catchment area to ensure the continuation of foster care services if a contract was terminated early.

Expanding community-based foster care. By December 31, 2019, DFPS would have to:

- identify a maximum of eight catchment areas that were best suited to implement community-based foster care and up to two that could be identified as best suited to implement the transfer of case management services to an SSCC;
- create an implementation plan for those catchment areas, including a timeline for implementation;
- following the readiness review process and subject to the availability of funds, implement community-based foster care in those catchment areas; and
- following the implementation of community-based foster care services, evaluate the implementation process and SSCC performance in each catchment area.

The bill would allow DFPS to change the geographic boundaries of catchment areas to align with specific communities. DFPS would have to ensure the continuity of services for children and families during the transition of community-based foster care in a catchment area.

Pilot program. The bill would require DFPS to implement a pilot program in two CPS regions where the Health and Human Services Commission (HHSC) contracted with a single non-profit entity focused on child welfare or a governmental entity to provide family-based safety services and case management for children and families receiving those services.

By December 31, 2018, DFPS would have to submit a report to the applicable standing committees of the Legislature that included an evaluation of every contracted entity's progress in achieving certain performance goals. The report also would include a recommendation of whether to continue, expand, or terminate the pilot program.

Community engagement group. The bill would require DFPS to create a community engagement group in each catchment area to assist with the implementation of community-based foster care. DFPS would adopt rules governing community engagement groups and the maximum number of child welfare stakeholders that could be included in the group. The group would identify and report any issues stemming from the implementation

process and facilitate the use of local resources, including prevention and early intervention resources, to supplement community-based foster care services.

Data access and standards governance council. DFPS would establish a data access and standards governance council to develop protocols for allowing SSCCs to access DFPS data to perform case management functions. Every SSCC that contracted with DFPS to provide community-based foster care would have to participate on the council. The council also could include court stakeholders, DFPS, health care providers, and other entities DFPS deemed necessary.

Health screenings. The bill would require children who were in DFPS custody for more than three business days to receive a medical examination and mental health screening by the end of the third business day or by the end of the fifth business day if the child was located in a rural area. The bill would require DFPS to submit a report by December 31, 2019, to the applicable standing committees on the department's compliance with administering medical examinations and mental health screenings.

An SSCC would have to verify a child to whom it was providing therapeutic foster care services was screened for trauma at least once every 90 days.

A child-placing agency or general residential operation would be required to ensure children in DFPS conservatorship received a complete early and periodic screening, diagnosis, and treatment checkup as specified in their contracts with HHSC. The bill also would require managed care organizations under the STAR Health program to ensure their enrollees received these screenings and checkups. Contracts would include that an entity's noncompliance with administering the required screening, diagnosis, and checkup to children in DFPS conservatorship would result in progressive monetary penalties. The bill would prohibit HHSC from imposing financial penalties for an entity's noncompliance until September 1, 2018.

The bill also would require DFPS and an SSCC to notify within 24 hours

the managed care organization under Medicaid's STAR Health program of any changes in a child's placement.

A child-placing agency and general residential operation would have to comply with the required contract provisions by August 31, 2018. The bill would apply to a contract between a managed care organization and HHSC entered into, renewed, or extended on or after September 1, 2017.

Non-community-based foster care regions. In regions of the state where community-based foster care had not been implemented, DFPS management personnel and local stakeholders would have to create and submit to the DFPS commissioner an annual plan that addressed foster care capacity needs. DFPS also would be required to collaborate with a child-placing agency to develop and implement the single child plan of service model for each child in foster care in these regions by September 1, 2017.

Performance metrics. HHSC and DFPS would have to develop performance quality metrics for family-based safety services and post-adoption support services providers by September 1, 2018. The metrics would be included in each contract with those providers.

Investigations of child abuse, neglect, and exploitation. The bill would specify that investigations of alleged abuse, neglect, or exploitation occurring at a child-care facility would remain under the purview of DFPS and would not be subject to consolidation of the health and human services agencies. DFPS would be required to transfer the investigation duties of the Texas Child-Care Licensing (CCL) division to its Child Protective Services (CPS) division. This transfer would occur as soon as possible after the effective date of this section of the bill, which would be immediately if the bill was finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect August 28, 2017.

The bill would repeal the abuse, neglect, and exploitation definitions used by CCL at DFPS under Family Code, sec. 261.401. DFPS instead would adopt the definitions under Family Code, sec. 261.001.

DFPS would have to create standardized policies to use during investigations. It would implement the standardized definitions and policies by December 1, 2017. The DFPS commissioner would be required to establish specialized units within CPS to investigate allegations of child abuse, neglect, and exploitation at child-care facilities and could require investigators to receive ongoing training on minimum licensing standards.

Data collection. The bill would require DFPS to collect and monitor data on recurring reports of abuse or neglect by the same alleged perpetrator or involving the same child, including reports of abuse or neglect of the child made while the child resided in other households and reports of abuse or neglect of the child by different alleged perpetrators made while the child resided in the same household. When DFPS determined case priority or conducted service or safety planning for the child or child's family, the bill would require DFPS to consider any reports of abuse and neglect.

As soon as practicable after the bill's effective date, the bill also would require DFPS to create an office of data analytics to monitor and report on certain information about the agency's staff, such as employee retention and performance.

Records. DFPS would be required to ensure a child-placing agency, SSCC, or other person placing a child for adoption received a copy of the child's health, social, educational, and genetic history report. If a child was placed with a prospective adoptive parent prior to adoption, the bill would entitle the prospective adoptive parent access to the child's health history.

An entity placing a child for adoption would be required to notify the prospective adoptive parent of the prospective adoptive parent's right to examine information related to the child's health history. The entity would have to redact information from the health records to protect the biological parents and any other person whose identity was confidential. If DFPS was aware whether a child's birth mother consumed alcohol during pregnancy and whether the child had been diagnosed with fetal alcohol spectrum disorder, the bill would require DFPS to include such information in the child's health history.

Day care reimbursement for foster parents. The bill would require DFPS to provide monetary assistance to a foster parent for full-time or part-time day care services for a foster child if DFPS received the required verification from a foster parent or the child needed an emergency placement. As long as the foster parent was employed full-time or part-time, the bill would prohibit DFPS from denying monetary assistance to the foster parent.

Attorney-client privilege. The bill would deem an employee, agent, or representative of an SSCC as a client's representative of DFPS for purposes of attorney-client communication privileges.

Suits. Under the bill, a court's jurisdiction over a case affecting the parent-child relationship would be terminated if the court did not begin a trial on the merits or grant an extension within one year. The case would be automatically dismissed without a court order.

Legal representation. In a catchment area where an SSCC is providing services, a county attorney or district attorney at a minimum would legally represent the department in any action that is filed against DFPS.

Effective date. Except as otherwise stated, the bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSSB 11 would increase foster care capacity, strengthen accountability and transparency, and galvanize collaboration among child welfare stakeholders to promote a foster child's best interests within local communities.

The bill would increase Texas' ability to provide community-based foster care services to foster children with diverse needs in multiple geographic regions. The Department of Family and Protective Services (DFPS) experiences high caseworker turnover rates and lacks efficiency and local decision-making to find placements for children in foster care. Transferring case management services to a single source continuum contractor (SSCC) and expanding community-based foster care to other regions would allow more children to be placed within their home communities and to experience better outcomes.

The bill would strengthen accountability by requiring an SSCC to undergo an extensive readiness review process before the transfer of case management services or the expansion of community-based foster care occurred. During the readiness review process, an SSCC would have to disclose a plan explaining how the SSCC would avoid or eliminate conflicts of interest. The creation of a quality assurance division would increase transparency by requiring SSCCs to meet specific performance-based outcomes.

CSSB 11 would enhance collaboration among state and local child welfare stakeholders by establishing a community engagement group. The group would allow stakeholders to provide any necessary feedback to DFPS to make a region's transition to community-based foster care as smooth as possible.

OPPONENTS SAY:

CSSB 11 would reduce the role of Child Protective Services (CPS) in the foster care system by outsourcing case management services to a single source continuum contractor (SSCC). Enabling the SSCC to provide case management services could lead to conflicts of interest by the SSCC, which could endanger the child's best interests.

The Legislature should give DFPS more time to use its monetary and staff resources to improve outcomes for foster children before transferring case management services to SSCCs. DFPS recently received emergency funding to hire additional CPS caseworkers, increase caseworkers' salaries, and reduce caseworker turnover rates. Additional caseworkers would help DFPS meet the current foster care redesign goals the Legislature has set forth.

OTHER OPPONENTS SAY:

CSSB 11 should implement the expansion of community-based foster care at a faster pace for catchment areas in the pilot program. Community-based foster care in the Dallas area has proven to be a successful model for foster children by placing most children within 50 miles of their home communities. Accelerating the timeline of implementing community-based foster care in additional catchment areas would help local communities build the necessary capacity to address child welfare needs and give more foster children a chance to remain in their communities.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about $17.6 million to general revenue related funds during fiscal 2018-19. It is assumed DFPS would hire additional staff for the foster care services contract compliance, oversight, and quality assurance division, which could cost $1.2 million in all funds each fiscal year. It is also assumed that about 1,200 children would enter paid kinship care annually, which is estimated to cost $1.6 million in general revenue and $4.4 million in all funds in fiscal 2019 and each year thereafter.

CSSB 11 differs from the Senate-passed version in numerous ways. Among these, the committee substitute would:

- require the Department of Family and Protective Services (DFPS) to create a community engagement group; foster care services contract compliance, oversight, and quality assurance division; data access and standards governance council; and child protective services legislative oversight committee;
- direct DFPS to identify other catchment areas for the implementation of community-based foster care;
- increase the single source continuum contractor (SSCC) qualifications and the required SSCC contract provisions;
- not include the risk terrain modeling system for prevention and early intervention services that appeared in the Senate-engrossed version;
- require children who remained in DFPS conservatorship for more than three business days to receive a mental health screening; and
- require DFPS to adopt standardized definitions of abuse, neglect, and exploitation under Family Code, sec. 261.001.

A companion bill, HB 6 by Frank, was placed on the May 8 House Emergency Calendar and postponed.

SUBJECT: Requirements for the adoption and publication of property tax rates

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 8 ayes — D. Bonnen, Y. Davis, Bohac, Darby, Murphy, Raymond, Shine, Springer

3 nays — E. Johnson, Murr, Stephenson

SENATE VOTE: On final passage, March 21 — 18-12 (Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Seliger, Uresti, Watson, West, Whitmire, Zaffirini)

WITNESSES: For — Crystal Main, Over-Taxed Friends and Family of Crystal Main; James LeBas, Texas Apartment Association; John Otto, Texas Association of Realtors; Dale Craymer, Texas Taxpayers and Research Association; Michael Openshaw; (*Registered, but did not testify*: Adrian Acevedo, Anadarko Petroleum; Adam Cahn, Cahnman's Musings; Chris Hill, Collin County, Texas; Michael Sullivan, Empower Texans/Texans for Fiscal Responsibility; Eric Guerra, Clayton Hunt, James Lindsey, Ryan Simpson, and John Wilford, Libertarian Party of Texas; Annie Spilman, National Federation of Independent Business - Texas; Kyle Whatley, Republican Party of Texas; James Popp, Tax Equity Council; Scott Norman, Texas Association of Builders; Daniel Gonzalez and Julia Parenteau, Texas Association of Realtors; Crystal Ford, Texas Building Owners and Managers Association; Jim Sheer, Texas Retailers Association; Debbie Cartwright, Texas Taxpayers and Research Association; James LeBas, Texas Association of Manufacturers, Texas Oil and Gas Association; and 12 individuals)

Against — Kenneth Casaday, Austin Police Association; Gary Worley, Brown County Commissioners Court; Dick Lavine, Center for Public Policy Priorities; Jared Miller, City of Amarillo; Steve Adler, City of Austin; Bryan Grimes, City of Ballinger; Chris Watts, City of Denton; John Bruce, Shona Huffman, and Maher Maso, City of Frisco; Douglas Athas, City of Garland; Mark Lee, City of Garland Fire Department; Nin Hulett, City of Granbury; Victor Conley and Jeff Spivey, City of Irving;

Tracy Aaron, Clayton Chandler, Peter Phillis, and Joe Smolinski, City of Mansfield; Charles Cato and Stan Pickett, City of Mesquite; Susan Lang, City of Richmond; James Brandon, Laura Hill, and Sharen Jackson, City of Southlake; Juan Adame, Jennifer Brown, and Joe Zimmerman, City of Sugar Land; Aaron Smith, City of Whitehouse; Charley Wilkison, Combined Law Enforcement Associations of Texas; Jim Allison, County Judges and Commissioners Association of Texas; Wallace Hardgrove and David Stout, County of El Paso; Edward Dion, County of El Paso, Texas Association of County Auditors; Charles Reed, Dallas County Commissioners Court; Mary Horn, Denton County; Roger Harmon, Johnson County; Patti Jones and Bill McCay, Lubbock County; Barry Bondurant, Mansfield Fire Rescue; Craig Pardue, Midland County; Mark Mendez, Tarrant County; Donald Lee, Texas Conference of Urban Counties; John Carlton, Texas State Association of Fire and Emergency Districts; Ro'Vin Garrett, Tax Assessor-Collectors Association of Texas; Nicki Riley and Jessica Rio, Travis County; Robert Abbott, Travis County Emergency Services District No. 6/Lake Travis Fire Rescue; (*Registered, but did not testify*: Joe Hamill, American Federation of State, County and Municipal Employees; Kara Mayfield, Association of Rural Counties in Texas; Andrew Romero, Austin Police Association; Anthony Marquardt, Austin-Travis County EMS Association; Paul Pape, Bastrop County; Jon Burrows, Bell County; Melissa Shannon, Bexar County Commissioners Court; Nathan Mendenhall, Bexar County Fire Marshall; Clay Huckaby, Buda Fire Department; James Oakley, Burnet County; Alex Dominguez, Cameron County; Byron Underwood, Cherokee County; Ernest Gonzalez, Cities of Eagle Pass and San Diego; Gary Hopper, City of Live Oak; Ed Drain, City of Amarillo; Eddie Solis, City of Arlington; Ed Van Eeno, City of Austin; Ben Crum, Suzanne De Leon, David Harris, John Jahanara, and Brock Ward, City of Balcones Heights; Julie Acevedo, City of Baytown, City of Round Rock; Tom Matzen, City of Bee Cave; Blu Kostelich, Jesica McEachern, and Steve Stanford, City of Bridgeport; Jackie Maynard, City of Bryan; Ricky Mantey and Jeremy Riley, City of Bryan Fire Department; Billy Cordell, Ken Freeman, and Ken Shetter, City of Burleson; Karl Mooney, City of College Station; Karen Hunt, City of Coppell; Tom Tagliabue, City of Corpus Christi; Curtistene McCowan, City of DeSoto; Guadalupe Cuellar, City of El Paso; TJ Patterson, City of Fort Worth; Benjamin Brezina, Mark Piland, and Henry Hill, City of Frisco; Betsy Price, City of Fort Worth; Sally Bakko, City of Galveston;

John Sullivan, City of Georgetown; Christy Martinez, City of Grand Prairie Police Department; Sharron Spencer, City of Grapevine; Jerry Bark and Paul Sims, City of Harker Heights; Lance Bracco and Adam Miles, City of Hewitt; Clay Caruthers, Clayton Fulton, Steve Moore, and Larry Kitchens, City of Hurst; Chris Hillman and Jon Weist, City of Irving; Joe Ayala, City of Jacinto City Police Department; Taylor Calvin, City of Laredo; Kelly Kuenstler and Chris Riley, City of Leon Valley; Luis Valdez, City of Leon Valley, Alamo Area Fire Chiefs Association; Ed Cimics, Mary Dennis, Christopher Everett, and Scott Wayman, City of Live Oak; Robert Floyd, City of Lubbock, City of Lufkin; Angela Hale, City of McKinney, McKinney and Frisco chambers of commerce; Donald Kerns, City of Menard; Mark Kerby, City of Mesquite; Jerry Wyatt, City of Missouri City; Harry LaRosiliere, James McCarley, Danny Pirozzo, and Brandi Youngkin, City of Plano; Mark Solomon, City of Richardson; Scott Campbell and Gary Johnson, City of Roanoke; Chris Whittaker, City of Rockdale; Mike Brodnax, City of Rowlett; Brian Funderburk, City of Rowlett, Texas; Troy Elliott, City of San Antonio; Alison Ortowski, City of Southlake; Michael Starr, City of Southlake; Rick Ramirez, City of Sugar Land; Brynn Myers and Traci Barnard, City of Temple; Joe Perez, Brant Shallenburger, and Scott Thompson, City of The Colony; Ashley Nystrom, City of Waco; Robert Wood, City of West Lake Hills; Dennis Borel, Coalition of Texans with Disabilities; Chris Jones and Arianna Smith, Combined Law Enforcement Associations of Texas; Jennifer Poteat, Community College Association of Texas Trustees; Jason Brinkley, Cooke County; Cary Roberts and Marc Hamlin, County and District Clerks Association of Texas; Kevin Burns, County of Wise; Theresa Daniel, Dallas County Commissioners Court; Frederick Frazier, Dallas Police Association; Robert Hebert, Fort Bend County; David Cook, Fort Worth Police Officers Association, Combined Law Enforcement Associations of Texas; Ken Clark, Galveston County; James Devlin, Hewitt Police Department/City of Hewitt; Jessica Anderson, Houston Police Department; Mitchell Davenport, Jack County; Eddie Arnold, Jefferson County; Bobby Gutierrez, Bill Gravell, Carlos Lopez, Phil Montgomery, and Jama Pantel, Justices of the Peace and Constables Association of Texas; Bruce Wood, Kaufman County; Joseph Salvaggio, Leon Valley Police Department; Murray Agnew, Limestone County; Luis Lamas, City of Ingleside; Bill Kelly, City of Houston Mayor's Office; Mike Bradford, Midland County; Bob Langford and Mark Murphey,

Montague County; Drew Campbell, North Texas Commission; Samuel Neal, Nueces County; Dennis Bailey, Rockwall County; Lorena Campos, San Antonio Chamber of Commerce; Charles Hood, San Antonio Fire Department; James Jones and William McManus, San Antonio Police Department; Trace Finley, San Patricio County Commissioners Court; Jennifer Henderson, Schleicher County; T. Michael O'Connor, Mark Roark, AJ Louderback, Micah Harmon, and Ricky Scaman, Sheriffs' Association of Texas; Greg Capers, Sheriffs' Association of Texas, San Jacinto County; Benny Glen Whitley, Tarrant County; Maureen Milligan, Teaching Hospitals of Texas; Katie Burrows, Temple College; Rene Lara, Texas AFL-CIO; Steven Johnson, Texas Association of Community Colleges; Ender Reed and Paul Sugg, Texas Association of Counties; Jeffrey Mincy, Texas EMS Alliance; Dudley Wait, Texas EMS Alliance, City of Schertz; Betty Wilkes, Texas Fire Chiefs Association; Christina Neely-Lopez, Texas Fire Marshals' Association; Don McBeath, Texas Organization of Rural and Community Hospitals; James McLaughlin, Texas Police Chiefs Association; Clay Avery, Texas State Association of Fire and Emergency Districts; Glenn Deshields, Texas State Association of Fire Fighters; Dwight Harris, Texas AFT; Anna Holmes and Kwame Walker, City of Dallas; Holly McPherson and Terry Henley, Texas Municipal League; Noel Johnson, Texas Municipal Police Association; Steve Floyd, Tom Green County; Eric Greaser, Town of Flower Mound, Texas; Stacy Suits, Travis County; Gerald Daugherty and Deece Eckstein, Travis County Commissioners Court; Peter Torgrimson, Travis County ESD 4; Grover Worsham, Trinity County; John Cannata, TSA; Gary Henderson, United Way of Denton County; Andrew Smith, University Health System; Woodrow Gossom, Wichita County; Lane Akin and Monte Shaw, Wise County; and 11 individuals)

On —Samuel Sheetz, Americans for Prosperity - Texas; James Quintero, Texas Public Policy Foundation; Peggy Venable; (*Registered, but did not testify*: Sally Bakko, City of Galveston; William Jackson, Harris County; John Hawkins, Texas Hospital Association)

DIGEST:

CSSB 2 would require an appraisal district to maintain an online database with estimated tax burdens based on current-year rates from taxing units, change certain requirements for appraisal review boards (ARBs), create requirements on a taxing unit adopting a property tax rate, rename the

effective tax rate the "no-new-revenue tax rate," and make certain changes to required notices from the appraisal district and taxing units.

Appraisal district database. Each appraisal district would be required to maintain a property database that was regularly updated, accessible to the public, and searchable by property address and owner. The database would be required to include certain information on each property in the taxing unit, including proposed tax rates, the rollback tax rate, and applicable no-new-revenue tax rate for each taxing unit, estimated tax burdens under several of those rates, and information about public hearings on a proposed tax rate. For appraisal districts in counties with a population less than 120,000, the requirement to maintain the database would take effect beginning with the 2020 tax year. For larger appraisal districts, it would take effect beginning with the 2019 tax year.

Each taxing unit also would be required to post on its website certain information, such as the unit's proposed and historical budgets, historical tax rates, and the most recent financial audit.

A taxing unit could not adopt a tax rate until the chief appraiser of each appraisal district covering the taxing district had complied with these provisions. A taxing unit also could not hold a public hearing on a proposed tax rate until the 14th day after complying with these provisions.

Appraisal review boards. The bill would provide that taxing units, after the 2017 tax year, no longer were entitled to challenge the appraised value of a category of property at an ARB hearing.

For appraisal districts in a county with a population of at least 1 million, the ARB would be required to establish a special panel to conduct protest hearings on property that the district had appraised at a value of $50 million or more that also was:

- commercial real or personal property;
- real or personal property of a utility;
- industrial or manufacturing real or personal property; or
- multifamily residential real property.

A property owner of a property meeting the above qualifications would be entitled, upon request, to a hearing of a special ARB panel for a protest filed on or after January 1, 2019.

Except in cases when too few members of the ARB qualify, special ARB panel members would have to have at least one of several credentials, such as a law degree or accreditation in property appraisal.

Tax rate adoption and reporting. The bill would require taxing districts to use an electronic form, prepared by the comptroller, to calculate and report to the comptroller the no-new-revenue tax rate and the rollback tax rate. School districts also would be required to use the form to calculate and report the rate to maintain the same amount of state and local revenue per weighted student that the district received in the previous school year. The comptroller would produce the form as soon as practicable after January 1, 2018.

Before a taxing unit other than a school district could adopt a tax rate, an officer or employee of a taxing unit would be required to certify that the tax rates reported on the form were properly calculated using values on the unit's certified tax rolls. While current law requires these rates to be either mailed to every property owner in the unit or published in a newspaper, this bill alternatively would allow the rates to be posted prominently on the homepage of the taxing unit's website.

The bill also would amend the procedures under which a taxpayer would be entitled to an injunction from the collection of taxes. A taxpayer would have to file for an injunction within 15 days of the adoption of the tax rate and would not be required to pay the taxes imposed while the action was pending. This change would take effect January 1, 2019.

Notifications. The bill would remove an estimated amount of the tax due based on the previous year's tax rates from the notice of appraised value delivered by an appraisal district to a property owner. This change would take effect January 1, 2020.

The bill would require appraisal districts to send to every property owner, by email or regular mail by August 7 or as soon as practicable thereafter, a

notice that contains a link to the appraisal district's online database where the estimated tax due to each taxing unit could be found. The comptroller could adopt rules on the format and delivery of the notice. For appraisal districts in counties with a population less than 120,000, these changes would take effect beginning with the 2020 tax year. For larger appraisal districts, these changes would take effect beginning with the 2019 tax year.

The bill also would change some required wording for notices of a public hearing on a tax increase and notices of taxpayers' right to a rollback election for various taxing units.

Except as otherwise provided, the bill would take effect January 1, 2018.

SUPPORTERS SAY:

CSSB 2 is an opportunity for the Legislature to improve transparency and reduce confusion among taxpayers about where their tax revenue goes, without imposing an undue burden on taxing units and appraisal districts.

Appraisal review boards (ARBs). The bill would provide for the creation of a special ARB panel for high-value properties in high-population districts, which would have more stringent standards for its members than other ARB panels. This would ensure that any protests on properties with the greatest effect on the budget would be subject to the best standard of review possible, potentially reducing litigation as more cases would be resolved on the administrative level.

CSSB 2 would be justified in disallowing taxing units from protesting categories of appraisals because that mechanism is seldom used and rarely successful. Therefore, its elimination would not cause a significant unfair shift of the tax burden onto other property owners because it already has a limited impact.

Tax rate adoption and reporting. The mandates imposed by CSSB 2 would be slight but would provide a great deal of valuable information to taxpayers. Most taxing units and appraisal districts already maintain the necessary infrastructure, including a property database, and comply with at least some part of the new reporting requirements, so this would not impose a substantial burden on local governments.

While CSSB 2 could be strengthened, such as by changing the rollback rate, doing so could adversely impact taxing units. Ratings agencies have suggested that a lower rollback threshold could jeopardize bond ratings. Faster-growing cities, which need to raise more revenue due to sheer population growth, would more frequently trigger rollback elections, harming their ability to budget for the future. Additionally, lowering the threshold could cause some taxing entities to raise rates or keep them steady even in years when there was a surplus, in an effort to avoid a rollback election in a following year.

Notifications. Under current law, appraisal districts are required to notify property owners of their estimated tax due, using the previous year's tax rates. This has proven confusing on many levels because it creates an appearance that the appraisal district is responsible for setting the tax rates. Even though the notice says it is not a tax bill, it frequently is mistaken for one. CSSB 2 would eliminate this confusion, instead requiring another notice that would direct the taxpayer to a database that clearly laid out which taxing units were responsible for each part of the property tax burden.

Additionally, by changing the name of the effective tax rate to the "no-new-revenue rate," notices clearly would suggest to property owners the significance of reporting the rate, allowing taxpayers to more clearly see whether or not the actual property tax rates, set by the taxing districts, had increased.

OPPONENTS SAY:

Tax rate adoption and reporting. CSSB 2 unnecessarily would increase mandates on taxing units and appraisal districts. Current disclosures and notice requirements are more than sufficient to ensure that voters are informed about budgets and tax rates of the jurisdictions in which they reside so they can hold their locally elected officials accountable.

Appraisal review boards. CSSB 2 should not prohibit taxing units from protesting categories of appraisals, which is the only safeguard that currently exists against appraisals that are too low. This could drive down certain categories of appraisals as other property owners use low appraisals as comparables, unfairly shifting the tax burden onto other

property owners.

OTHER OPPONENTS SAY:

Tax rate adoption and reporting. CSSB 2 should be significantly strengthened to lower the rollback rate and streamline voter petitions. Returning to the Senate-passed version of the bill by reducing the threshold for a rollback election from an 8 percent rate increase to a 5 percent rate increase would require more local governments to be accountable and reach out to voters in more frequent rollback elections.

NOTES:

According to the Legislative Budget Board's fiscal note, the bill would have an estimated negative impact of $624,000 through fiscal 2018-19.

CSSB 2 differs from the Senate-passed bill in many ways. Notably, the committee substitute would not reduce the rollback tax rate from 8 percent to 5 percent or change provisions surrounding a voter petition for a rollback election.

SUBJECT: Recommending instruction on e-cigarette prevention in public schools

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

SENATE VOTE: On final passage, April 18 — 26-5 (Buckingham, Burton, Creighton, Hall, V. Taylor)

WITNESSES: *On House companion bill, HB 3684:*
For — (*Registered, but did not testify:* Dwight Harris and Ted Melina Raab, Texas American Federation of Teachers; Lindsay Gustafson, Texas Classroom Teachers Association; Ellen Arnold, Texas PTA; Portia Bosse, Texas State Teachers Association)

Against — (*Registered, but did not testify:* Traci Hooks)

On — (*Registered, but did not testify:* Kara Belew, Von Byer, and Monica Martinez, Texas Education Agency)

BACKGROUND: Education Code, sec. 28.004 requires the board of trustees of each school district to establish a local school health advisory council to assist with ensuring that local community values are reflected in the district's health education instruction. The council's duties include making recommendations for policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent obesity, cardiovascular disease, Type 2 diabetes, and mental health concerns.

Health and Safety Code, sec. 161.081 defines an e-cigarette as an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device.

DIGEST: SB 489 would add recommending instruction to prevent the use of e-

cigarettes to the duties of a local school health advisory council.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY:

SB 489 would address concerns that use of e-cigarettes among middle and high school students has increased in recent years by recommending that instruction to prevent e-cigarette use be reflected in the health education curriculum delivered by local school districts. Last session, the Legislature took steps to regulate and mitigate e-cigarette use, but it has not been addressed through the public school health education curriculum.

While e-cigarettes are sometimes perceived to be a healthy alternative to cigarettes, e-cigarettes still are a nicotine-based product that can lead to health consequences. By allowing local school health advisory councils to recommend better education for students on the health risks associated with e-cigarettes, just as these councils already do for curriculum on traditional cigarettes, the bill would ensure that health experts and community members were involved in determining the instructional content best suited for their communities.

The bill would not require e-cigarette curriculum in all schools. Each local school health advisory council would be able to determine the extent to which they would recommend e-cigarette prevention instruction, and school districts would have the final say on any decision on health curriculum in their schools.

OPPONENTS SAY:

SB 489 would create an unnecessary requirement for school districts and local health advisory councils. Instead of making instruction to prevent the use of e-cigarettes a requirement in the Education Code, it should be left up to the discretion of each district to choose whether such instruction was necessary for its community. Making health and nutritional recommendations is not the proper role of government, and this bill would further intrude into matters that should be the responsibility of parents.

OTHER OPPONENTS

Without ample scientific evidence suggesting that e-cigarettes pose a danger to one's health, discussions on their use should not be added to

SAY: instruction in the public education system.

NOTES: A companion bill, HB 3684 by Alvarado, was withdrawn from the Local, Consent, and Resolutions Calendar on May 12.

SUBJECT: Allowing proceeds from the sale of fishing stamps for certain purposes

COMMITTEE: Culture, Recreation and Tourism — favorable, without amendment

VOTE: 4 ayes — Frullo, Fallon, Gervin-Hawkins, Martinez

0 nays

3 absent — Faircloth, D. Bonnen, Krause

SENATE VOTE: On final passage, April 4 — 31-0

WITNESSES: No public hearing

BACKGROUND: Parks and Wildlife Code, sec. 43.805 governs funds collected from the sale of freshwater fishing stamps and collectible freshwater fishing stamps by the Texas Parks and Wildlife Department. Funds from the sale of $5 freshwater fishing stamps are authorized to be spent on the repair, maintenance, renovation, or replacement of freshwater fish hatcheries and the purchase of game fish to stock public waters. Funds from the sale of $5 collectible freshwater fishing stamps are authorized to be spent only on the restoration, enhancement, or management of fresh water fish habitats.

DIGEST: SB 573 would allow the Texas Parks and Wildlife Department (TPWD) to use funds collected from both the sale of freshwater fishing stamps and collectible freshwater fishing stamps to be spent only on:

- repairing, maintaining, renovating, or constructing freshwater fish hatcheries and facilities supporting the management and research of freshwater fisheries;
- purchasing game fish for stocking public waters;
- restoring, enhancing, or managing freshwater fish habitats;
- developing shoreline-based projects for freshwater angler access; and
- administering and operating freshwater fish hatcheries in an amount that did not to exceed 20 percent of the average annual net receipts per fiscal biennium.

The bill would repeal the provision in current law governing the use of funds from collectible freshwater fishing stamp sales.

The bill would take effect September, 1, 2017.

SUPPORTERS SAY:

SB 573 would allow the Texas Parks and Wildlife Department (TPWD) to use funds generated from the sale of both freshwater fishing stamps and collectible freshwater fishing stamps to help fund critical capital improvements and repairs at Texas fish hatcheries.

Current law allows only the funds from the sale of collectible freshwater fishing stamps to be used for funding fish habitats, which has proven insufficient. By allowing funds generated from the sale of freshwater fishing stamps to be used for these purposes, the bill would improve TPWD's ability to restore, enhance, and manage fish habitats. Funding for fish habitats would be used to purchase or construct structures to enhance fish-attracting cover and stabilize reservoir shorelines and riverbanks.

The bill would attract more anglers to fish in state waters by enhancing fisheries, creating better fishing conditions, improving shoreline and riverbank access, and constructing more fishing piers and non-motorized boat launches.

The bill would provide TPWD with budget flexibility by allowing the use of up to 20 percent of freshwater fishing stamp and collectible freshwater fishing stamp net receipts for administrative and operational costs for freshwater fish hatcheries.

OPPONENTS SAY:

No apparent opposition.

SUBJECT: Modifying applicability of certain seatbelt requirements for school buses

COMMITTEE: Transportation — favorable, without amendment

VOTE: 7 ayes — Morrison, Martinez, Burkett, Goldman, Israel, Pickett, Wray

2 nays — Phillips, E. Thompson

4 absent — Y. Davis, Minjarez, Simmons, S. Thompson

SENATE VOTE: On final passage, April 26 — 24-7 (Buckingham, Burton, Hall, Hancock, Huffines, Schwertner, V. Taylor)

WITNESSES: *On House companion, HB 1188:*
For — Jaime Adams and Stephen Forman, West Brook Bus Crash Families; Sheanine Chatman; (*Registered, but did not testify*: John Hubbard and Ian Randolph, National Association of Bus Crash Families; Ted Melina Raab, Texas AFT (American Federation of Teachers); Troy Alexander, Texas Medical Association; Clayton Travis, Texas Pediatric Society; Victoria Sommerman, Texas Watch; Martha Baker, JoAnne Bonura, Mike Bonura, Brad Brown, Melanie Psencik, Michael Psencik, Allison Stoos, and Christopher Stoos, West Brook Bus Crash Families)

Against — None

BACKGROUND: Transportation Code, sec. 547.701(e) requires each school bus and school activity bus used by a school district to transport schoolchildren to be equipped with a three-point seatbelt for each passenger. This requirement applies to each bus purchased on or after September 1, 2010 and each school-chartered bus contracted on or after September 1, 2011.

Sec. 547.701(f) specifies that a district must adhere to the three-point seatbelt requirement only if the Legislature had appropriated money to reimburse the district for the expenses of compliance.

DIGEST: SB 693 would require all school districts to comply with the three-point seatbelt requirement by repealing the condition that a district must comply

only if the Legislature had appropriated money for reimbursing the district for the expenses of compliance.

The bill would include a "multifunction activity bus" and a "school-chartered bus" in the definition of a bus used for the transportation of schoolchildren that must be equipped with a three-point seatbelt for each passenger.

SB 693 also would modify the applicability of the three-point seatbelt requirement, which would not apply to:

- a bus of model year 2017 or earlier; or
- a later-model bus purchased by a school district whose board of trustees had determined by vote in a public meeting that the district's budget did not permit the purchase of a bus equipped with the required seatbelts.

This bill would take effect September 1, 2017.

SUPPORTERS SAY:

SB 693 would help prevent tragic, avoidable fatalities and injuries by closing a loophole that districts currently use to avoid complying with three-point seatbelt requirements. Meanwhile, Texas continues to experience fatalities resulting from school bus collisions. In the last 18 months, Houston, Woodville, Temple, and Iraan school districts all have reported deaths and injuries from school bus crashes. School districts have a responsibility to transport children in the safest manner possible.

The bill would not place an unfunded mandate on school districts because it would provide an exemption for school boards that could demonstrate significant budgetary obstacles to compliance. Most districts have adequate funds to outfit new buses with three-point seatbelts, which represents only a small portion of the overall cost of a new bus. The bill also would not require old buses to be retrofitted with three-point seatbelts.

SB 693 would not reduce school bus capacity. Three-point seatbelts are retractable and can fit three small children or two large children to one seat, allowing for optimal seating while keeping schoolchildren safe.

Three-point seatbelts are the safest option for school bus passengers. In both private and government agency studies, lap-shoulder belt technology has been proven to improve passenger safety on school buses, reducing risk of head and neck injury from a collision. "Compartmentalization" methods currently used to pad school bus seats both in front of and behind passengers are insufficient to keep passengers safe in a major or roll-over collision.

OPPONENTS SAY:

SB 693 would place an unfunded mandate on school districts by removing the provision that districts need only comply with the three-point seatbelt requirement if reimbursed for their expenses. This mandate would further burden the already strained budgets of school districts, weakening their ability to provide a quality education.

The bill could make schoolchildren less safe overall by reducing school bus capacity. Requiring seatbelts on all buses could prevent more than two children from sharing a seat, which could require the school district to buy more buses or the children to use more dangerous transportation methods, such as biking or riding in passenger cars.

Three-point seatbelts are not necessarily safer than lap belts. In roll-over accidents or crashes resulting in a fuel tank fire, three-point seatbelts can increase the risk of injury or death to a child by restricting mobility and creating the potential for strangulation. The "compartmentalization" padding method currently used in school buses sufficiently protects schoolchildren in collisions.

NOTES:

A companion bill, HB 1188 by Phelan, was reported favorably from the House Transportation Committee on May 2.

SUBJECT: Extending and changing depository contracts between schools and banks

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

SENATE VOTE: On final passage, May 3 — 31-0

WITNESSES: *On House companion bill, HB 878:*
For — (*Registered, but did not testify:* Meredyth Fowler, Independent Bankers Association of Texas; Mike Motheral, Small Rural School Finance Coalition; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; Colby Nichols, Texas Rural Education Association; Dee Carney, Texas School Alliance; David Anthony)

Against — None

On — (*Registered, but did not testify:* Leonardo Lopez, Texas Education Agency)

BACKGROUND: Education Code, ch. 45, subch. G requires each school district to contract with a depository bank into which the Texas Education Agency may deposit funds for the district. When seeking to contract with a depository bank, a district is required to use a competitive bidding process or issue a request for proposals.

The depository contract agreement between district and bank remains in force for two years, except that the district and bank may agree to extend a contract for up to two additional two-year terms if there are no changes to the contract other than the extension. Such an extension is not subject to the requirement for a competitive bidding process or request for proposals.

According to TEA procedures, the requirement for a district to use the competitive bidding process or request for proposals applies when the additional two terms of extension have expired, there is a change to the contract, or the school district wishes to contract with another bank.

DIGEST:

SB 754 would allow a school district to extend a depository contract with a bank for up to three two-year terms, rather than two. If both parties agreed to terms, the depository contract could be modified for each two-year extension without being subject to the requirement for a competitive bidding process or request for proposals.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

SB 754 would give school districts and banks more flexibility to extend a depository contract while also making mutually agreeable changes without requiring them to start a new process of competitive bidding or requesting proposals. This bill would allow school districts and banks to make contract changes that better reflected market conditions without entering into costly and time-consuming processes. A district still could begin a new bidding process after any two-year term if it wished and could not extend a contract for more than eight years total.

Many rural area have a limited number of banks, and a bidding process may result in only one candidate. Going through a new bidding or request for proposal process for any change is unnecessary if the end result is selecting the same bank. Increasing the number of possible contract extensions and allowing for changes to be made without beginning a new competitive bidding or request for proposal process would save school districts time and money.

OPPONENTS SAY:

No apparent opposition.

NOTES:

A companion bill, HB 878 by K. King, was approved by the House on April 12 and reported favorably from the Senate Education Committee on May 16.

SUBJECT: Requiring driver education schools to accommodate for deaf students

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

SENATE VOTE: On final passage, April 5 — 28-2 (Creighton, Huffines)

WITNESSES: For — Joe Sanders; (*Registered, but did not testify*: Steven Aleman, Disability Rights Texas; Deborah Caldwell, Northeast ISD; Barry Haenisch, Texas Association of Community Schools; Janna Lilly, Texas Council of Administrators of Special Education; Kyle Ward, Texas PTA; Columba Wilson)

Against — None

On — (*Registered, but did not testify*: Raymond Pizarro, Texas Department of Licensing and Regulations; Kara Belew, Texas Education Agency)

DIGEST: SB 1051 would require the Texas Department of Licensing and Regulation (TDLR) to create a driver education course for minors and adults that presented the course curriculum in American Sign Language (ASL) and to make the course available on the department's website. TDLR could collaborate with another state agency to create the course.

The Texas Commission of Licensing and Regulation (TCLR) would establish a fee for the online ASL course, in addition to fees charged for a certificate, which could not exceed the amount necessary to cover the costs of creating and administering the course. The cost of the ASL course also could not exceed the average cost of an online course provided in Texas.

TCLR would require a driver education school to make reasonable

modifications and offer aids and services in a manner described by the federal Americans with Disabilities Act when providing the classroom portion of a standard driver education course to ensure a student who was deaf or hard of hearing could participate.

A driver education school would be required to provide to TDLR the school's plan for complying with the accommodations requirement as a condition of obtaining or renewing a driver education school license. A school could comply with the requirement by playing a video that presented the classroom portion of the course.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

SB 1051 would require driver education schools to provide some type of reasonable accommodation in the classroom for deaf and hard of hearing students, ensuring those students had easier access to driving instruction. The bill specifies that required accommodations could be satisfied with just an instructional video, including the online course presented in American Sign Language that the Texas Department of Licensing and Regulation would create and post to its website.

The bill would require the Texas Commission of Licensing and Regulation to issue a fee to cover startup and administrative costs related to the video, but the fee could not be more than the average cost of a driver education course in the state.

OPPONENTS SAY:

SB 1051 would impose a burdensome fee for a driver education course given in American Sign Language. It is not necessary because a driver education course already could be given for deaf and hard of hearing students within existing resources.

SUBJECT: Authorizing the modification of certain carcass rules

COMMITTEE: Culture, Recreation and Tourism — favorable, without amendment

VOTE: 4 ayes — Frullo, Fallon, Gervin-Hawkins, Martinez

0 nays

3 absent — Faircloth, D. Bonnen, Krause

SENATE VOTE: On final passage, April 19 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Texas Parks and Wildlife Code, sec. 42.0177 provides that the Texas Parks and Wildlife Commission may modify or eliminate by rule the tagging requirements for deer, turkey, or other birds and animals, or other similar tagging requirements under ch. 42.

Sec. 42.018 requires a deer tag to be attached to a deer carcass until it is finally processed, which may occur only at a final destination, such as the hunter's home or a cold storage or processing facility. According to sec. 42.001, "final processing" means processing the animal for cleaning or cooking more than by quartering. "Quartering" is the processing of an animal into not more than two hindquarters and two front shoulders and includes removal of two back straps.

DIGEST: SB 720 would allow the Texas Parks and Wildlife Commission to modify or eliminate by rule the carcass, final destination, or final processing requirements or provisions for certain birds or animals, including deer. The commission also could modify or eliminate certain definitions related to general hunting licenses and requirements for possession of certain antelope parts.

The bill would take effect September 1, 2017.

SUPPORTERS SAY: SB 720 would give the Texas Parks and Wildlife Commission the

rulemaking authority necessary to amend carcass processing requirements, as well as the definition of final destination, which would allow the commission to better respond to and mitigate disease risk. Chronic wasting disease is a growing concern in Texas, and concentrations of the prions that cause the disease are higher in some tissues than others. Transporting those tissues could further spread the disease, and as a result, many states have imposed restrictions on moving certain carcass parts. The commission should encourage hunters to leave certain carcass parts at the harvest site to prevent the spread of disease but currently does not have the authority to do so.

OPPONENTS SAY:

No apparent opposition.

SUBJECT: Adjusting content, order, and numbering of propositions on a ballot

COMMITTEE: Elections — committee substitute recommended

VOTE: 6 ayes — Laubenberg, Israel, R. Anderson, Fallon, Larson, Reynolds

0 nays

1 absent — Swanson

SENATE VOTE: On final passage, April 19 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Election Code, sec. 52.095 requires the authority ordering an election in which more than one measure is to be voted on to determine the order propositions are to appear on the ballot.

DIGEST: CSSB 957 would establish certain requirements for each proposition on a ballot. Proposed constitutional amendments would be placed on the ballot before all other propositions. Each proposition would have to identify the name of the authority ordering the election on the measure. The authority ordering the election would have to assign a number to propositions being voted on statewide, and a letter of the alphabet to other propositions. The number or letter would correspond to the order on the ballot.

The secretary of state would be required to prescribe procedures necessary to implement these requirements.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY: CSSB 957 would minimize voter confusion by labeling each proposition with the authority that ordered the election on the measure and numbering or lettering each proposition. Requiring constitutional amendments to be placed first would provide added clarity. Voters have noted confusion

when a ballot contains two "Proposition 1" measures. The bill's labeling requirements would help resolve voter confusion.

OPPONENTS SAY:

While CSSB 957 is needed to eliminate voter confusion surrounding ballot propositions, requiring constitutional amendments to be listed first and assigning numbers and letters as applicable would likely be enough to resolve voter confusion. Identifying each authority would take up extra space on the ballot that could be better used describing the proposition.

NOTES:

CSSB 957 differs from the Senate-passed bill in that the committee substitute would:

- require proposed constitutional amendments to be placed on the ballot before all other propositions;
- establish specific rules for identifying statewide propositions versus other propositions;
- require each proposition to identify the name of the authority that ordered the election on the measure; and
- provide that the bill could take immediate effect upon receiving the necessary votes.

SUBJECT: Creating a defense to underage alcohol use for victims of sexual assault

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Moody, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

2 absent — Hunter, Canales

SENATE VOTE: On final passage, April 26 — 31-0

WITNESSES: *On House companion bill, HB 4015:*
For — Mike Gomez, Texas Municipal Police Association; (*Registered, but did not testify:* Nicholas Hudson, American Civil Liberties Union of Texas; Chris Kaiser, Texas Association Against Sexual Assault; John Dahill, Texas Conference of Urban Counties; Douglas Smith, Texas Criminal Justice Coalition; Yannis Banks, Texas NAACP; Alex Meed; Maria Person)

Against — None

On — (*Registered, but did not testify:* Dexter Jones, Texas Alcoholic Beverage Commission; William Mills, Sheriffs' Association of Texas)

BACKGROUND: Alcoholic Beverage Code, sec. 106.04(a) creates an offense for the consumption of alcohol by a minor. Section 106.05(a) creates an offense for the possession of alcohol by a minor.

DIGEST: SB 966 would establish that the offenses of consumption or possession of alcohol by a minor did not apply to a minor under certain circumstances involving the reporting of sexual assault. The defense could be raised by a minor who reported that the minor or another person was sexually assaulted or by a minor who was the victim of a sexual assault reported by another person if the report was made to:

- a health care provider treating the victim;

- a law enforcement employee, including an employee of a campus police department at a higher education institution; or
- a Title IX coordinator or other employee responsible for responding to sexual assault at a higher education institution.

A minor would be entitled to raise the defense only if the minor was consuming or in possession of alcohol at the time the reported sexual assault took place. The defense would not be available to a minor who committed sexual assault.

The bill would take effect September 1, 2017, and would apply only to an offense that occurred on or after that date.

SUPPORTERS SAY:

SB 966 would provide a much-needed safe harbor to victims of sexual assault who may be afraid of reporting an assault because of the criminal consequences of alcohol use prior to the assault. Individuals who have experienced such a trauma should not have to choose between coming forward and risking prosecution for a crime. This bill would help foster a positive change in the culture of reporting and investigating sexual assaults, especially on college campuses.

OPPONENTS SAY:

No apparent opposition.

NOTES:

A companion bill, HB 4015 by Neave, was reported favorably as substituted by the House Committee on Criminal Jurisprudence on May 1 and recommended for the Local and Consent Calendar.

SUBJECT: Notifying parents of certain intervention strategies for struggling students

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

SENATE VOTE: On final passage, April 26 — 31-0, on Local and Consent Calendar

WITNESSES: For — Steven Aleman, Disability Rights Texas; Columba Wilson; (*Registered, but did not testify*: Christine Yanas, Methodist Healthcare Ministries of South Texas; Ted Melina Raab, Texas AFT (American Federation of Teachers); Barry Haenisch, Texas Association of Community Schools; Ramiro Canales, Texas Association of School Administrators; Lindsay Gustafson, Texas Classroom Teachers Association; Janna Lilly, Texas Council of Administrators of Special Education; Kyle Ward, Texas PTA)

Against — None

On — (*Registered, but did not testify*: Kara Belew, Von Byer, and Gene Lenz, Texas Education Agency)

BACKGROUND: Education Code, sec. 26.0081(c) requires the Texas Education Agency to produce and provide to school districts a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education.

Education Code, sec. 42.006 requires school districts to provide certain information about student demographics and academic performance through the Public Education Information Management System (PEIMS).

29 U.S.C. sec. 794 protects otherwise qualified individuals with a disability from being excluded from participation in, being denied the benefits of, or being subjected to discrimination under any program or

activity receiving federal funds. The section is part of the Rehabilitation Act of 1973.

DIGEST:

SB 1153 would require school districts and charter schools to notify parents when their child was receiving assistance for learning disabilities. The bill also would require schools to report additional information to the state on students who were receiving certain intervention strategies.

Parental notification. The bill would entitle parents to access additional written records concerning their child, including records relating to assistance provided for learning difficulties and information collected on any intervention strategies used with the child. An "intervention strategy" would be defined as a strategy in a multi-tiered system of supports that is above the level of intervention generally used in that system with all children. The term would include response to intervention (RtI) and other early intervening strategies.

The bill would add to existing requirements for information that the Texas Education Agency must provide to districts explaining the options and requirements for assisting students who have learning difficulties or who need or may need special education. The explanation would state that parents were entitled at any time to request an evaluation of their child for aids, accommodations, or services under the federal Rehabilitation Act of 1973, which prevents federally funded programs from discriminating against individuals with disabilities.

Each school year, each district and open-enrollment charter school would be required to notify a parent of each child, other than a child enrolled in a special education program, who received assistance for learning difficulties, including through use of intervention strategies. The notice would be written in English or, to the extent practicable, the parent's native language, and would include:

- a reasonable description of the assistance that may be provided to the child, including any intervention strategies that may be used;
- information collected regarding any intervention in the base tier of a multi-tiered system of supports that had previously been used with the child;

- an estimate of the duration for which the assistance would be provided;
- the estimated time frames within which a report on the child's progress with the assistance would be provided to the parent; and
- a copy of the explanation provided by TEA to school districts on options and requirements for providing assistance to students with learning difficulties and the statement of the parent's right to request their child be evaluated, as discussed above.

Notification could be provided to a child's parent at a meeting of the team established for the child under the Rehabilitation Act of 1973, if applicable.

The Commissioner of Education would adopt rules requiring each district and charter school to annually report through the Public Education Information Management System (PEIMS) information on the total number of students provided with aids, accommodations, or services. Districts and charter schools also would be required to annually report the total number of other students with whom intervention strategies were used.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply beginning with the 2017-18 school year.

SUPPORTERS SAY:

SB 1153 would increase transparency and parental rights by requiring schools to inform parents on the strategies being used with their student's education. The notification would include a description of the interventions used, the duration for which assistance would be provided, the estimated time frame within which a report on the child's progress would be provided, and the rights of parents to request their child be evaluated for special education services.

A newspaper investigation of the state's relatively low percentage of students receiving special education services discussed the practice some districts use of Response to Intervention (RtI) models before referring a student to be evaluated for special education. The RtI process can be used

effectively to help students who are struggling with learning but can be abused if it delays the identification of students who qualify for special education services and may need them to be successful.

The bill would address one shortfall of the RtI process by ensuring parents were aware of the specific strategies and how long schools expected to use them. Schools are unlikely to over-identify students for special education services. Instead, the bill could prod districts to correct the identified trend of students who qualify for special education being denied services.

Uniform state rules about parental involvement during the RtI process would empower the parents of children who have been labeled by schools as struggling learners but might instead have a hidden disability. The bill would neither require nor prohibit schools from using RtI but would provide basic information to parents on what is entailed with their child receiving interventions for learning difficulties.

SB 1153 also would give the state access to better information on the number of students receiving intervention strategies and accommodations outside of special education programs. While RtI is not a new practice, no data are available about how many Texas school children participate in it. Schools already enter vast amounts of information about their students into the data system known as PEIMS, and two additional data codes would not burden schools or the Texas Education Agency.

OPPONENTS SAY:

SB 1153 could have the unintended consequence of discouraging schools from using proven RtI strategies to address the learning needs of students who are struggling because of poor instruction or a behavioral concern, and not because of a hidden disability. The requirement that schools report the number of students for whom they are using RtI strategies could have the effect of discouraging schools from using those strategies and instead placing everybody with learning difficulties into special education. Such a development would represent a step backward for a system that has too often incorrectly labeled certain students as learning disabled because they were behind in some subjects or had legitimate physical or emotional needs.

NOTES:

A companion bill, HB 3599 by Huberty, was referred to the House Public

Education Committee on March 30.

SUBJECT: Adjusting regulations on certain elements of vehicle towing and booting

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 6 ayes — Kuempel, Guillen, Frullo, Geren, Goldman, Paddie

0 nays

3 absent — Hernandez, Herrero, S. Thompson

SENATE VOTE: On final passage, April 25 — 31-0

WITNESSES: *On House companion bill, HB 3306:*
For — (*Registered, but did not testify:* Adam Cahn, Cahnman's Musings; Tommy Anderson and Joann Messina, Southwest Tow Operators; Jeanette Rash, Texas Towing and Storage Association)

Against — None

On — (*Registered, but did not testify:* Jim Arnold, Admiral Enforcement; Nora Del Bosque, Capital Parking ATX; Brian Francis, Texas Department of Licensing and Regulation)

BACKGROUND: Occupations Code, sec. 2308 regulates towing and booting companies and operators. Sec. 2308.151 requires a towing operator to have a license to perform a towing or booting operation or operate a towing or booting company.

DIGEST: CSSB 1501 would repeal certain state licensing and regulation requirements for boot operators and booting companies and would allow local authorities to regulate booting activities in certain areas.

Local authorities. The bill would allow local authorities to regulate booting activities and related permit and sign requirements in areas where they regulate traffic or parking. A local authority's booting regulations would be required to incorporate:

- existing state regulations on booting of unauthorized vehicles and new regulations added by the bill on boot removal;
- procedures for vehicle owners or operators to file complaints; and
- penalties for a booting company or operator that violated boot removal requirements.

Any boot operator's license or booting company license issued by the Texas Department of Licensing and Regulation would expire on September 1, 2018. The bill would allow an individual to perform booting operations or a booting company to operate unless otherwise prohibited by a municipal ordinance.

Boot removal requirements. The bill would create statewide regulations regarding boot removal for boot operators and booting companies. A booting company that installed a boot on a vehicle would be required to remove it within an hour of receiving a removal request from the vehicle's owner. The fee for the removal of the boot would be waived if the booting company failed to remove the boot within that time. A booting company also could not charge more for the removal of multiple boots on a single vehicle than the fee for the removal of a single boot.

University towing. The bill would allow an individual designated by a university to request that a vehicle parked at the university's campus be moved to another location on the campus to facilitate a special event. A vehicle could not be towed unless signs clearly indicating the towing enforcement, as well as related information outlined in the bill, were posted 72 hours preceding towing enforcement for a special event and 48 hours after the end of the event.

The bill would require that personnel be available to release the vehicle within two hours of receiving a release request and to accept payment for the vehicle's release. A university could not charge more than 75 percent of the private property towing fee. A vehicle unclaimed within 48 hours of the event's conclusion could only be towed to another location on the university's campus and without further expense to the owner or operator. The university would have to notify the owner or operator of the right to a hearing regarding vehicle towing without consent.

Advisory board. The bill would change the name of the Towing, Storage, and Booting Advisory Board to the Towing and Storage Advisory Board, and would adjust its membership by including:

- a representative, rather than owner, of a vehicle storage facility in a county of less than 1 million, as well as one in a county of 1 million or more;
- a representative, rather than an owner, of a parking facility;
- a peace officer, rather than law enforcement officer, from a county of less than 1 million, as well as one from a county of 1 million or more;
- a representative of a member insurer of the Texas Property and Casualty Insurance Guaranty Association who writes automobile insurance in the state; and
- a person who operates both a towing company and vehicle storage facility.

The bill would remove a representative of a booting company from the board. Changes to the board's composition would apply only to board member vacancies that occurred on or after the bill's effective date.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would not apply to the booting of a vehicle that resulted from an agreement that was established before the effective date.

SUPPORTERS SAY:

CSSB 1501 would remove burdensome and unnecessary statewide licensing requirements and other regulations related to vehicle booting. In 2016, only 18 complaints were filed concerning licensed booting operators and companies, while no enforcement actions were taken. This demonstrates that public health, safety, and welfare can be maintained while removing unnecessary licensing constraints.

Although concerns have been raised that the bill could create an uneven regulatory landscape and allow certain local authorities to impose

unworkable booting fee ceilings, the Occupations Code already allows a municipality to regulate the fees that may be charged in connection with the booting of a vehicle. This bill would not represent a departure from current policy regarding the establishment of local booting fee regulations.

OPPONENTS SAY:

CSSB 1501 would create an uneven regulatory landscape by giving local authorities the ability to regulate booting. The bill would allow local authorities to impose ceilings on the fees booting companies may charge, prohibiting companies from recouping their operating costs.

NOTES:

CSSB 1501 differs from the Senate-passed version in several ways. The committee substitute would allow for more than one boot to be placed on a vehicle at a time and would not allow the removal fee for multiple boots on the same vehicle to cost more than the removal fee for a single boot. CSSB 1501 also would regulate the towing of vehicles on university campuses during special events.

The Senate-passed version would require local authorities to include in their regulations a provision to provide for the revocation of any booting company or operator's permit, license, or other authorization if the company or operator had violated the bill's boot removal provisions twice within a five-year period. It also would take effect only if it received a specific appropriation from the 85th Legislature for its implementation.

A companion bill, HB 3306 by Kuempel, was approved by the House on May 6.

SUBJECT: Creating new courts, revising certain courts' jurisdiction

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Smithee, Farrar, Gutierrez, Murr, Neave, Rinaldi, Schofield

0 nays

2 absent — Hernandez, Laubenberg

SENATE VOTE: On final passage, April 6 — 31-0

WITNESSES: *On House companion bill, HB 3372:*
For — (*Registered, but did not testify:* Joseph Green, Travis County Commissioners Court; Michelle Wittenburg, Fort Bend County)

Against — None

On — David Slayton, Texas Judicial Council, Office of Court Administration

DIGEST: CSSB 1329 would create new courts and amend certain courts' jurisdiction, amend the definition of a Title IV-D case, revise certain authority given to associate judges in suits relating to parent-child relationships, revise laws dealing with bailiffs in certain counties, require the filing of certain judicial oaths with the secretary of state, and increase the fee that may be charged for the issuance of an attorney's license with a seal.

New courts, court jurisdiction. The bill would create the following new courts on these dates:

- 453rd Judicial District, composed of Hays County, September 1, 2018;
- 458th Judicial District, composed of Fort Bend County, September 1, 2017;
- 459th Judicial District, composed of Travis County, to give

preference to civil matters, October 1, 2017;

- 460th Judicial District, composed of Travis County, to give preference to criminal matters, October 1, 2019;
- 462nd Judicial District, composed of Denton County, January 1, 2019;
- 464th Judicial District, composed of Hidalgo County, January 1, 2019;
- County Court at Law No. 6 of Fort Bend County, January 1, 2018; and
- County Court at Law No. 3 of Hays County, October 1, 2018.

The bill also would create the County Court at Law for Grimes County, effective October 1, 2017. In addition to the jurisdiction given to statutory county courts in Government Code, sec. 25.0003, the court would be given concurrent jurisdiction with the district court in family law cases and proceedings. The bill would establish requirements and authority related to the court's operation, including the judge's salary, expenses, staff, services and jurors. The judge of the county court at law could not engage in a private law practice.

The bill would give the County Criminal Court No. 4 of Denton County jurisdiction over mental health matters.

The bill would remove the concurrent jurisdiction currently given to a county court at law in Walker County with the district court for certain cases. The bill would revise the duties of the judge of a county court at law in Walker County as they relate to court reporters and their salaries. The bill also repeal provisions detailing the salary for the judge of the Walker County Court at law.

Title IV-D case definitions. The bill would revise the Family Code definition of what is considered a Title IV-D case, which are cases in which the child support division of the office of the attorney general provides services relating to the location of absent parents, determination of parentage, or child support or medical support. The definition would be expanded to include certain suits for modification and other actions relating to services provided by the attorney general's office in these cases.

Associate judge, parent-child suits. The bill would revise the authority of associate judges to render and sign certain orders in suits involving parent-child relationships and certain adoption cases. The bill would authorize an associate judge to render a final order in a suit affecting the parent-child relationship if the parties waived the right to a de novo hearing before the court that referred the case to the associate judge. The waiver would have to be made in writing before the start of a hearing conducted by the associate judge. The orders that the bill would allow associate judges to render and sign would constitute orders of the court that referred the suit to the associate judge. Orders signed by associate judges before May 1, 2017, would be final orders considered to be rendered as of the date they were signed.

Associate judges would be authorized to hear and render an order in an adoption suit for a child in the care of the Department of Family and Protective Services.

Bailiffs. The bill would require the judges of the 244th , 358th, and 446th district courts to each appoint a bailiff. The judges of the 271st District Court and the judges of the county courts at law in Wise County also would be requires to each appoint a bailiff.

The bill would create or alter the requirements for bailiffs in the 70th, 161st, 244th, 358th, and 271st district courts. The bill would subject the 244th, 358th, and 446th district courts to certain existing requirements for deputizing bailiffs in specified courts. The bailiffs in the 244th, 358th, and 446th district courts would be added to those who are considered peace officers, unless the judge who appointed the bailiff provided otherwise.

The bill would include the bailiffs in the 244th, 271st, 358th, and 446th district courts and the bailiffs of the county courts at law in Wise County among the bailiffs who currently are required to swear a certain oath.

Bailiffs appointed by the judge of the 271st District Court or appointed by a county court at law judge in Wise County would be entitled to receive a salary that did not exceed the salary of a lieutenant in the sheriff's department of the county. The salary would be paid out of the county's

general fund.

Judicial oaths. CSSB 1329 would require the oath of office and the signed statement required by the Texas Constitution of certain individuals to be filed with the secretary of state. The requirement would apply to officers appointed by the Texas Supreme Court, Court of Criminal Appeals, or State Bar and any associate judges appointed in a Title IV-D or child protection case.

Fee for attorney license with seal. The bill would raise the fee from $10 to $25 that the clerk of the Texas Supreme Court is required to collect when issuing an attorney's license or certificate with a seal.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSSB 1329 would create new courts to help ensure the state has adequate judicial resources. As the Texas population grows and shifts, there is an impact on the courts, and the state's judicial system needs to be adjusted. The courts that would be created by the bill were identified by the Office of Court Administration after analysis of several factors, including increases in caseloads and case backlogs. Creating new courts as needed works well for the state because it allows the Legislature to focus resources where the data support a need. Counties in which a new court would be created have adopted resolutions in support of an additional court in their area.

The bill also would clarify that modifications of child support orders by the child support division of the attorney general's office would be considered a Title IV-D case to reflect current practice and to ensure modifications were treated like other actions in these cases. Associate judges' authority to sign and render final orders in parent-child relationship suits would be clarified and revised to make the process more efficient, while allowing those involved in the suits to preserve the ability for a trial de novo, if they wished.

Other changes would ensure that certain bailiffs were subject to the specified statutes, that the law governing a county court at law in Walker county was similar to that of other counties, that statements of judicial

oaths were filed in one place, and that an adequate fee could be charged to pay for the cost of issuing a copy of an attorney license with a decorative seal.

The bill could be amended to remove the provision giving the County Criminal Court No. 4 in Denton County jurisdiction over mental health matters.

OPPONENTS SAY:

The Legislature may want to be cautious about establishing certain new courts, such as ones in areas like Hidalgo County, where the increase in caseloads could be associated with singular weather events and an associated increase in lawsuits. Measures being considered by the 85th Legislature to decrease the volume of lawsuits related to severe weather events could mitigate the need for courts in this areas.

CSSB 1329 should not give the County Criminal Court No. 4 in Denton County jurisdiction over mental health matters. These matters are traditionally handled by civil courts, and moving jurisdiction to a criminal court could further the stigmatization of mental health issues. Although CSSB 1329 would change jurisdiction over mental health issues in only one court, it could open the door to similar changes in other courts.

NOTES:

The fiscal note for CSSB 1329 estimates a cost of $1.5 million to the general revenue fund for fiscal 2018-19 and an ongoing annual cost of about $1.3 million.

The bill's author plans to offer an amendment to eliminate the provision that would give the County Criminal Court No. 4 of Denton County jurisdiction over mental health matters.

The House committee substitute differs from the Senate-passed version in certain ways, including by adding the new court for the 453rd Judicial District composed of Hays County, amending the effective dates for certain courts that would be created by the bill, and adding provisions relating to Walker County, the fee for attorney's licenses with seals, and provisions on bailiffs.

SUBJECT: Authorizing administrative closure of certain CPS cases

COMMITTEE: Human Services — favorable, without amendment

VOTE: 9 ayes — Raymond, Frank, Keough, Klick, Miller, Minjarez, Rose, Swanson, Wu

0 nays

SENATE VOTE: On final passage, April 20 — 31-0

WITNESSES: No public hearing

BACKGROUND: Family Code, sec. 261.3015, allows the Department of Family and Protective Services to administratively close a reported case of abuse or neglect without completing the investigation or alternative response and without providing services or making a referral to another entity for assistance if the department determines, after contacting a professional or other credible source, that the child's safety can be assured without further investigation, response, services, or assistance.

DFPS may, in accordance with statute and department rules, conduct an alternative response to a report of abuse or neglect if the report of abuse or neglect does not allege sexual abuse of a child, allege abuse or neglect that caused the death of a child, or indicate a risk of serious physical injury or immediate serious harm to a child.

DFPS' alternative response to a report of abuse or neglect must include a safety assessment of the child who was the subject of the report; an assessment of the child's family; and, in collaboration with the child's family, identification of any necessary and appropriate service or support to reduce the risk of future harm to the child.

An alternative response to a report of abuse or neglect may not include a formal determination of whether the alleged abuse or neglect occurred.

DIGEST: SB 190 would allow a Department of Family and Protective Services

(DFPS) caseworker to refer a reported case of child abuse or neglect to a DFPS supervisor for abbreviated investigation or administrative closure at any time within 60 days of the date the department received the report, if:

- there was no prior report of abuse or neglect for the child who was the subject of the report;
- the department had not received an additional report of abuse or neglect for the child following the first report; and
- the caseworker either determined that no abuse or neglect had occurred, or determined after contacting a professional or credible source that the child's safety could be assured without further investigation, response, services, or assistance.

The bill would define a "professional" to mean a person who was licensed or certified by the state, an employee of a facility licensed, certified, or operated by the state, and who had direct contact with children, as specified in the bill. The term would include teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provided reproductive services, juvenile probation officers, and juvenile detention or correctional officers.

A DFPS supervisor would be required to review each reported case of child abuse or neglect that remained open for more than 60 days and to administratively close the case if the supervisor determined that a case met the above criteria. The supervisor also would have to determine that closing the case would not expose the child to an undue risk of harm.

The bill would allow a DFPS supervisor to reassign a reported case of child abuse or neglect that did not qualify for abbreviated investigation or administrative closure to a different DFPS caseworker if the supervisor determined that reassignment would make the most effective use of department resources to investigate and respond to reported cases of abuse or neglect.

The Health and Human Services Commission executive commissioner would be required to adopt rules to implement the bill by December 1, 2017. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would

take effect September 1, 2017.

SUPPORTERS SAY:

SB 190 would allow the Department of Family and Protective Services and its Child Protective Services (CPS) division to administratively close reported cases of abuse or neglect if CPS did not have reason to investigate. This bill would allow CPS and DFPS to focus their time and resources on higher-risk cases rather than subjecting children and families to unnecessary investigations. The bill also would reduce the incidence of homeschooling families being subjected to unnecessary investigations.

Current procedures are not sufficient to allow caseworkers to administratively close low-risk or unsubstantiated cases of abuse or neglect because caseworkers fear they will make a mistake. The bill would provide clarity for caseworkers and supervisors regarding when they could administratively close a case. The process under the bill has already been implemented as a pilot program and has worked well. The pilot program also has improved morale among caseworkers and supervisors.

OPPONENTS SAY:

SB 190 could cause CPS and DFPS to prematurely close cases and could increase the risk of harm to children who were the subject of a report of abuse or neglect. DFPS already has procedures for administratively closing cases and these procedures do not need to be changed.

SUBJECT: Requiring registration, training for guardians; creating a database

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Neave, Rinaldi, Schofield

0 nays

1 absent — Murr

SENATE VOTE: On final passage, April 3 — 30-1 (Huffines)

WITNESSES: *On House companion bill, HB 2892:*
For — Terry Hammond, Texas Guardianship Association; (*Registered, but did not testify*: Kyle Piccola, the Arc of Texas; Jeff Miller, Disability Rights Texas; Debby Salinas Valdez, Elderly People of Disabilities; Belinda Carlton, Guardianship Reform and Supported Decision-Making Workgroup; Gyl Switzer, Mental Health America of Texas; Greg Hansch, National Alliance on Mental Illness; Will Francis, National Association of Social Workers, Texas; Lee Johnson, Texas Council of Community Centers; Linda Litzinger)

Against — None

On — David Slayton, Texas Judicial Council, Office of Court Administration

BACKGROUND: HB 3424 by Smithee, enacted by the 84th Legislature in 2015, directed the Office of Court Administration to examine the feasibility of implementing a central database containing the names of wards and the name and contact information of their guardian.

DIGEST: SB 1096 would set registration, training, and other requirements for certain guardians and provide for the creation of a central database of guardianships in Texas.

Registration and database. SB 1096 would require the Texas Supreme Court to establish a registration program for guardians after consulting with the Office of Court Administration (OCA) and the Judicial Branch Certification Commission. The bill would require all guardians to register with the commission. The Supreme Court would have to establish rules ensuring that when a guardian was removed, the court with jurisdiction over the guardianship immediately notified the commission.

OCA would be required to establish and maintain a central database of all guardianships under Texas jurisdiction. OCA would ensure that the Department of Public Safety (DPS) had access to the database for law enforcement purposes, and DPS would make the information available to law enforcement officers inquiring into a guardianship. The only information allowed to be disclosed would be the:

- name, sex, and date of birth of a ward;
- name, telephone number, and address of a ward's guardian; and
- name of the court with jurisdiction over the guardianship.

All information in the database would be considered confidential and not subject to disclosure. Law enforcement that received the information could not use if for a purpose that did not relate directly to why it was obtained.

If a ward was arrested, detained, or held in custody, the bill would require the peace officer, law enforcement officer, or person with custody to notify the court with jurisdiction over the guardianship within the first working day after the detention, arrest, or transportation to a facility.

Training. SB 1096 would direct the Supreme Court to require guardians to receive free training designed by the commission on guardian responsibilities, alternatives to guardianships, supports and services available to a ward, and a ward's bill of rights. The training would be made available on the commission's website or in written format on request.

The Supreme Court would be required to establish the commission's process for performing training and also would identify the circumstances

under which the training requirement could be waived. The commission would be required to show confirmation that a potential guardian completed the training to the probate court no later than the 10th day before the hearing to appoint a guardian. Training would not be required for an initial temporary guardian appointment, or for guardians who were attorneys or corporate fiduciaries or individuals subject to certain other certification requirements.

Criminal history record. The bill would require the commission to obtain a criminal history record of an individual seeking appointment as a guardian or temporary guardian and, upon request, to provide it to the clerk of the county having venue over the appointment of a guardian. A clerk would not be required to obtain a criminal history record for a person for whom the commission had conducted a background check.

If the estate's liquid assets were more than $50,000, a fingerprint-based criminal history record check would be required. Otherwise, the commission would conduct a name-based criminal history record check. Any criminal history record information would be confidential and could be used only by the commission and the court with jurisdiction for the authorized purposes. Background checks under the bill would not be required for guardians who were attorneys or corporate fiduciaries or individuals subject to certain other certification requirements.

SB 1096 would require the Supreme Court to establish the commission's process for performing background checks. The commission could charge a fee to obtain the criminal history record in an amount approved by the Supreme Court. The Supreme Court also could adopt rules excluding indigent individuals from having to pay the fee. A guardian would be entitled to reimbursement from the guardianship estate for the fee.

The bill would require a guardian filing an application to be in compliance with all applicable certification requirements before a court could grant the application.

SB 1096 would require OCA to establish the guardianship database by June 1, 2018, and give DPS access to it.

The Supreme Court, after consulting with the Judicial Branch Certification Commission, would be required to adopt rules necessary to implement applicable provisions of the bill as soon as practical after the effective date of the bill. A proposed guardian would not be required to comply with the training requirements in the bill until June 1, 2018. A law enforcement officer or other person with custody of a ward would not be required to notify the court having guardianship jurisdiction about a ward's detention, arrest, or transportation to a facility until July 1, 2018.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

SB 1096 would implement the 2016 Texas Judicial Council's Elders Committee recommendations to require guardians to be registered with the Judicial Branch Certification Commission and to make a registry available for law enforcement inquiries. The bill would increase compliance with background checks, ensure guardians were trained properly, enhance guardianship data collection, and improve interactions between law enforcement and persons under guardianship, many of whom have a mental illness or intellectual disability.

SB 1096 would address the difficulties courts have in monitoring guardianships. Family guardians can move from place to place without informing the court, and the court can lose track of the ward. A central database would help courts monitor and protect those under guardianship. Currently, there is no mechanism in place to know when people under guardianship are arrested or come into contact with law enforcement and whom law enforcement should call. The bill would allow law enforcement to use the database to inquire about a guardianship and obtain a guardian's contact information.

Although current law requires background checks of persons applying to serve as a guardian, the OCA's Guardianship Compliance Project revealed that compliance is limited. SB 1096 would increase compliance by creating a uniform system to ensure background checks were done before a guardianship was granted. The bill would require fingerprint background checks only in cases with larger estates to mitigate the cost to potential guardians and would entitle guardians to reimbursement from the guardianship estate for the background check fee.

OPPONENTS SAY:

SB 1096 would place an unnecessary state-created burden on family members who take on responsibility for a ward. Familial guardians should not be required to take training and be certified as other guardians are under the bill. The extra requirements on family members who step up to take care of incapacitated or disabled family members could discourage familial placement, particularly with elderly family members.

The bill would authorize a fee for criminal history record checks that could be a deterrent to potential guardians and financially burdensome.

OTHER OPPONENTS SAY:

SB 1096 would require a database to track guardianships. While the intent is good, inclusion in the database should be optional, not mandatory.

NOTES:

The Legislative Budget Board estimates that SB 1096 would have a negative impact of $837,834 to general revenue related funds through fiscal 2018-19.

A companion bill, HB 2892 by Smithee, was left pending following a public hearing of the House Committee on Judiciary and Civil Jurisprudence on May 2.